

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DONALD EVANS, IV,

Petitioner,

v.

WARDEN R. BAKER, *et al.*,

Respondents.

Case No. 3:17-cv-00003-MMD-WGC

ORDER

Petitioner has submitted an application to proceed *in forma pauperis* and a habeas petition. (ECF No. 1.)

The matter has not been properly commenced because the pauper application does not include all required attachments. Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2, a petitioner must attach both an inmate account statement for the past six (6) months and a properly executed financial certificate. Petitioner did not provide either. The application therefore is incomplete.

The application for leave to proceed *in forma pauperis* therefore will be denied, and the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application on the proper form with all required attachments.

It does not appear from the papers presented that a dismissal without prejudice will materially affect a later analysis of any timeliness issue with regard to a *promptly* filed new action.

1 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No.
2 1) is denied and that this action will be dismissed without prejudice to the filing of a new
3 petition in a new action with a properly completed pauper application.

4 It is further ordered that a certificate of appealability is denied, as jurists of reason
5 would not find the Court's dismissal of this improperly commenced action without
6 prejudice to be debatable or incorrect.

7 It is further ordered that the Clerk send petitioner two (2) copies each of an
8 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital
9 Section 2254 habeas petition form, one (1) copy of the instructions for each form, and a
10 copy of the papers that he submitted in this action.

11 It is further ordered that the Clerk of Court enter judgment accordingly and close
12 this case.

13 DATED THIS 17th day of January 2017.

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16 MIRANDA M. DU
17 UNITED STATES DISTRICT JUDGE
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